

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2004/004669

International filing date (day/month/year)
17.02.2004

Priority date (day/month/year)
18.02.2003

International Patent Classification (IPC) or both national classification and IPC
H04J11/00

Applicant
QUALCOMM, INCORPORATED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/004669

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/004669

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	8, 9
	No: Claims	1-7, 10-44
Inventive step (IS)	Yes: Claims	8, 9
	No: Claims	1-7, 10-44
Industrial applicability (IA)	Yes: Claims	1-44
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

The following documents are referred to in this communication:

D1 : EP 0 809 364 A (MITSUBISHI ELECTRIC CORP) 26 November 1997
(1997-11-26)

D2 : WO 99/29054 A (GOLDEN BRIDGE TECH INC) 10 June 1999 (1999-06-10)

V.1 INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent apparatus claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parenthesis applying to this document):
An apparatus, comprising:

a first encoder for receiving a plurality of symbol streams and encoding each of the symbol streams with one of a plurality of covering sequences to form a plurality of covered sequences (*CDM(B)*, page 16, lines 1-26; figure 20);

a summer for summing the plurality of covered sequences to form a first Code Division Multiplexed (CDM) signal (*page 16, line 56 - page 17, line 9; figures 20, 22 and 9*); and

a second encoder for covering the first CDM signal with a covering sequence to form a first covered CDM signal (*CDM(A)*, page 16, lines 1-26; figures 20).

Hence the subject-matter of independent Claim 1 is completely anticipated by D1, and can therefore not be considered novel as required by Article 33(2) PCT.

V.2 DEPENDENT CLAIMS 2-7, 10

Dependent claims 2-7, 10 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT) with respect to D1 or D1 in combination with D2.

V.3 DEPENDENT CLAIMS 8, 9

The combination of the features of dependent claims 8, 9 are neither known from, nor rendered obvious by, the available prior art. Hence it is respectfully submitted that a new independent claim, drafted to include all the features of Claim 7 and either Claim 8 or Claim 9, could be considered novel and inventive with respect to the available prior art.

V.4 INDEPENDENT CLAIM 25

The wording of independent method Claim 25 essentially defines the fetures of Claim 1, with some minor modifications. Using the same argumentation as in paragraph 2.1 with respect to D1, the present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 25 is not new in the sense of Article 33(2) PCT.

V.5 INDEPENDENT CLAIMS 11, 14, 16-21, 23, 33, 35-44

The wording of Claims 11, 14, 16-21, 23, 33 and 35-44 essentially defines the fetures of Claim 1, with some minor modifications that would be anticipated by the skilled person. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 11, 14, 16-21, 23, 33 and 35-44 is not new or new but not inventive in the sense of Articles 33(2) and 33(3) PCT.

Although Claims 11, 14, 16-21, 23, 33 and 35-44 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and/or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

V.6 DEPENDENT CLAIMS 2-7, 10, 12, 13, 15, 22, 24, 26-32, 34

Dependent claims 2-7, 10, 12, 13, 15, 22, 24, 26-32, 34 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

V.7 The following remarks should also be noted:

- To meet the requirements of Rule 5.1(a)(ii) PCT, documents D1 and D2 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.
- The Applicant should also consider that all the embodiments of the invention

described in the application have to be covered by the claims (cf. PCT-Guidelines, III-4.3).

- The description must be brought into conformity with the new claims to be filed; care should be taken during revision, especially of the introductory portion including any statements of problem or advantage (Rule 5.1(a)(iii) PCT), not to add subject-matter which extends beyond the content of the Application as originally filed, Article 19(2) and 34(2)(b) PCT.
- In order to facilitate the examination of the conformity of the amended application with the requirements of Article 19(2) and 34(2)(b) PCT, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based.

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

- In order to expedite the procedure the Applicant is requested to indicate with his reply where there is a basis for the amendments in the Application as originally filed.